

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**MARTY CHILDS,**

**PLAINTIFF**

**VS.**

**CASE NO: 4:05CV227-MPM-EMB**

**COX COMMUNICATIONS,**

**DEFENDANT**

**ORDER**

**BEFORE THE COURT** are Defendant Cox Communications' Motion [doc. 46-1] to Strike and/or preclude evidence, plaintiff's Response [doc. 47] and defendant's Reply [doc. 48]. Having duly considered the submissions of the parties and the applicable law, I find plaintiff is in violation of Rule 26 of the Federal Rules of Civil Procedure. Rule 26 provides in pertinent part:

“ . . . [A] party must, without awaiting a discovery request, provide to other parties:

. . . (C) a computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, . . . on which such computation is based. . . .

*See* FED.R.CIV.P. 26(a)(1). As such, plaintiff's computation of D's Electric & Sign Co., Inc.'s Monthly Sales for 2002-2005 is inadequate. Therefore, it is

**ORDERED:**

1. That on or before September 15, 2006, plaintiff shall furnish to defendant all documents upon which plaintiff relied in preparation of the computation of D's Electric & Sign Co., Inc.'s Monthly Sales for 2002-2005 and, further, serve defendant with any and all information required by Rule 26(a)(1).

2. That plaintiff shall serve defendant with any and all records of D's Electric & Sign Co.,

Inc., that are in the possession of Stanley E. Donald<sup>1</sup> and/or Bill Staten on or before September 15, 2006.

3. That should plaintiff fail in any wise to comply with this Order, defendant's motion to exclude evidence shall be granted.

**SO ORDERED** this 31st day of August, 2006.

/s/ Eugene M. Bogen  
**U. S. MAGISTRATE JUDGE**

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<sup>1</sup>The Court's own search of the phone directory revealed a Stanley E. Donald, CPA, listed for Greenville, MS.